

REPRESENTATIVE FOR PETITIONER:
Billy Dobbins, B & P Dobbins Trust representative

REPRESENTATIVE FOR RESPONDENT:
Peggy Hendron, Porter County Deputy Assessor

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

B & P Dobbins Trust w/Life Estate)	Petition No.:	64-028-16-1-5-00306-17
)		
Petitioner)		
)		
)	Parcel No.:	64-11-11-176-010.000-028
v.)		
)		
Porter County Assessor,)	County:	Porter
)		
Respondent.)	Assessment Year:	2016

Appeal from the Final Determination of the
Porter County Property Tax Assessment Board of Appeals

May 10, 2018

FINAL DETERMINATION

The Indiana Board of Tax Review (“Board”) having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

PROCEDURAL HISTORY

1. Petitioner initiated the assessment appeal with the Porter County Property Tax Assessment Board of Appeals (“PTABOA”). The PTABOA issued its final determination on March 8, 2017. Petitioner timely appealed to the Board on March 23, 2017.
2. On December 14, 2017, the Board’s Administrative Law Judge (“ALJ”), Ellen Yuhan, held an administrative hearing. Neither the ALJ nor the Board inspected the property.
3. Billy Dobbins was sworn and testified on behalf of Petitioner. Peggy Hendron, Porter County Deputy Assessor, was sworn and testified on behalf of Respondent.
4. Petitioner offered the following exhibits:
 - Petitioner Exhibit 1: Multiple Listing Service information and sales disclosure form for 150 Wenatchee Place in Hebron,
 - Petitioner Exhibit 2: Twenty photographs of properties in the subject subdivision.
5. Respondent offered the following exhibits:
 - Respondent Exhibit 1: Property record card for the subject property.
6. The following additional items are officially recognized as part of the record:
 - Board Exhibit A: Form 131 petition and attachments,
 - Board Exhibit B: Notice of hearing,
 - Board Exhibit C: Hearing sign-in sheet.
7. The subject property is a single-family dwelling located at 126 Wenatchee Place in Hebron.
8. For 2016, the property was assessed at \$47,800 for the land and \$142,000 for the improvements for a total of \$189,800.

9. Petitioner is not appealing the improvement value but requested the land value be reduced to \$30,000.

BURDEN OF PROOF

10. Generally, a taxpayer seeking review of an assessing official's determination has the burden of proving that a property's assessment is wrong and what the correct assessment should be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998). A burden-shifting statute creates two exceptions to that rule.
11. First, Ind. Code § 6-1.1-15-17.2 “applies to any review or appeal of an assessment under this chapter if the assessment that is the subject of the review or appeal is an increase of more than five percent (5%) over the assessment for the same property for the prior tax year.” Ind. Code § 6-1.1-15-17.2(a). “Under this section, the county assessor or township assessor making the assessment has the burden of proving that the assessment is correct in any review or appeal under this chapter and in any appeals taken to the Indiana board of tax review or to the Indiana tax court.” Ind. Code § 6-1.1-15-17.2(b).
12. Second, Ind. Code § 6-1.1-15-17.2(d) “applies to real property for which the gross assessed value of the real property was reduced by the assessing official or reviewing authority in an appeal conducted under Ind. Code § 6-1.1-15,” except where the property was valued using the income capitalization approach in the appeal. Under subsection (d), “if the gross assessed value of real property for an assessment date that follows the latest assessment date that was the subject of an appeal described in this subsection is increased above the gross assessed value of the real property for the latest assessment date covered by the appeal, regardless of the amount of the increase, the county assessor or township assessor (if any) making the assessment has the burden of proving that the assessment is correct.” Ind. Code § 6-1.1-15-17.2(d).
13. These provisions may not apply if there was a change in improvements, zoning, or use. Ind. Code § 6-1.1-15-17.2(c).

14. The 2016 assessed value decreased to \$189,800 from the 2015 value of \$190,000. Therefore, Petitioner has the burden of proof.

PETITIONER’S CONTENTIONS

15. Petitioner contends the land is over-assessed based upon the sale of a neighboring vacant parcel. The 2.4 acre parcel at 150 Wenatchee Place sold on January 6, 2017, for \$66,500 or a little less than \$28,000 per acre. Petitioner contends the subject parcel is assessed at \$48,000 per acre. *Dobbins testimony; Pet’r Ex. 1.*
16. Petitioner contends that all of the properties in the subdivision are over-assessed. He also contends that various neighboring residents do not maintain their properties which has an adverse effect on the subject. *Dobbins testimony; Pet’r Ex. 2.*

RESPONDENT’S CONTENTIONS

17. Respondent contends the sale of the parcel at 150 Wenatchee Place occurred after the assessment date and thus would not have been considered or reviewed for 2016. Furthermore, he contends that sale is not comparable to the subject because it was a vacant lot while the subject property has improvements. *Hendron testimony.*
18. Respondent contends Petitioner’s property is assessed exactly the same as other properties in the Springwood Estate subdivision. *Hendron testimony.*
19. Respondent argues that Petitioner offered pictures as evidence but they do not show what effect, if any, there is on the subject property’s value. In light of these considerations, Respondent contends Petitioner failed to make a case for a reduced value for 2016. *Hendron testimony.*

ANALYSIS

20. Real property is assessed based on its “true tax value”, which means “the market value-

by a similar user, from the property.” 2011 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.4-1-2); *see also* Ind. Code § 6-1.1-31-6(c). The cost approach, the sales comparison approach, and the income approach are three generally accepted techniques used to calculate market value-in-use. MANUAL at 2. Assessing officials primarily use the cost approach. MANUAL at 3. The cost approach estimates the value of the land as if vacant and then adds the depreciated cost new of the improvements to arrive at a total estimate of value. MANUAL at 2. Any evidence relevant to the true tax value of the property as of the assessment date may be presented to rebut the presumption of correctness of the assessment, including an appraisal prepared in accordance with generally recognized appraisal standards. MANUAL at 3.

21. Regardless of the method used to prove a property’s true tax value, a party must explain how its evidence relates to the subject property’s market value-in-use as of the relevant valuation date. *O’Donnell v. Dep’t of Local Gov’t Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006); *see also Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For 2016, the valuation date was January 1, 2016. Ind. Code § 6-1.1-2-1.5.
22. Petitioner attempted to use a sales comparison approach to establish market value-in-use. In order to effectively do so, the proponent must establish the comparability of the properties being examined. Conclusory statements that a property is “similar” or “comparable” do not constitute probative evidence. *Long* N.E. 2d at 470. Instead, the proponent must identify the characteristics of the subject property and explain how those characteristics compare to the characteristics of the purportedly comparable properties. *Id.* at 471. Similarly, the proponent must explain how any differences between the properties affect their relative market values-in-use. *Id.*
23. Petitioner presented information about one purportedly comparable property. The property is a 2.4 acre vacant parcel located near the subject that sold in January of 2017. While the sales disclosure form presented by Petitioner indicates that the property sold for \$66,500, it does not describe any relevant characteristics of the purportedly comparable property nor does it identify any similarities or differences between it and the

subject property. As a result, Petitioner has not established that the property is comparable to the subject property.

24. Petitioner also presented pictures of houses in the subject property's subdivision. Petitioner contends the owners of those houses do not maintain their properties which lowers neighboring property values. However, Petitioner's photographs do not support the contention that the land value should be reduced to \$30,000. Statements that are unsupported by probative evidence are conclusory and of no value to the Board in making its determination. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1118 (Ind. Tax Ct. 1998); and *Herb v. State Bd. of Tax Comm'rs*, 656 N.E.2d 890,893 (Ind. Tax Ct. 1995).
25. Petitioner failed to make a prima facie case that the assessment was incorrect for 2016. Where a petitioner has not supported its claim with probative evidence, the respondent's duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified Indus. Ltd. v. Dep't of Local Gov't Fin.*, 799 N.E. 2d 1215, 1221-22 (Ind. Tax Ct. 2003).

FINAL DETERMINATION

26. In accordance with the above findings of fact and conclusions of law, the Board determines the assessed 2016 assessed value should not be changed.

The Final Determination of the above captioned matter is issued by the Indiana Board of Tax Review on the date written above.

Chairman, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

- APPEAL RIGHTS -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5, and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. The Indiana Tax Court Rules are available at <<http://www.in.gov/judiciary/rules/tax/index.html>>.